

Senate Bill No. 1726

Passed the Senate August 20, 1996

Secretary of the Senate

Passed the Assembly July 10, 1996

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1996, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Sections 404, 404.2, 404.3, 404.4, and 404.8 of, and to add Sections 403 and 404.9 to, the Code of Civil Procedure, relating to civil procedure, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1726, Wright. Civil actions: coordination.

Existing law specifies the conditions under which the court may change the place of trial. Existing law provides for the coordination of civil actions sharing a common question of fact or law that are pending in different courts.

This bill would revise and recast the provisions of existing law governing the coordination of civil actions. The bill would specify new procedures regarding coordination, including authorization for a judge, upon motion, to transfer an action involving a common question of fact or law from another court to that judge's court if a declaration by the moving party states facts showing a good faith effort to obtain agreement to the transfer from all parties and that the actions are not complex, as specified. The bill would require a petition for coordination to be supported by a declaration stating facts showing that the actions are complex, as defined. The bill would require the Judicial Council to provide by rule the practice and procedure for the transfer or coordination of civil actions, as provided.

The bill would declare that it would take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 403 is added to the Code of Civil Procedure, to read:

403. A judge may, on motion, transfer an action or actions from another court to that judge's court for



coordination with an action involving a common question of fact or law within the meaning of Section 404. The motion shall be supported by a declaration stating facts showing that the actions meet the standards specified in Section 404.1, are not complex as defined by the Judicial Council pursuant to Section 19 of the Standards of Judicial Administration, and that the moving party has made a good faith effort to obtain agreement to the transfer from all parties to each action. Notice of the motion shall be served on all parties to each action and on each court in which an action is pending. Any party to that action may file papers opposing the motion within the time permitted by rule of the Judicial Council. The court to which a case is transferred may order the cases consolidated for trial pursuant to Section 1048 without any further motion or hearing.

If the cases are pending in different courts of the same county, the judge who grants the motion to transfer may also order the cases consolidated for trial in the receiving court.

The Judicial Council may adopt rules to implement this section, including rules prescribing procedures for preventing duplicative or conflicting transfer orders issued by different courts.

SEC. 3. Section 404 of the Code of Civil Procedure is amended to read:

404. When civil actions sharing a common question of fact or law are pending in different courts, a petition for coordination may be submitted to the Chairperson of the Judicial Council, by the presiding judge of any such court, or by any party to one of the actions after obtaining permission from the presiding judge, or by all of the parties plaintiff or defendant in any such action. A petition for coordination, or a motion for permission to submit a petition, shall be supported by a declaration stating facts showing that the actions are complex, as defined by the Judicial Council in Section 19 of the Standards of Judicial Administration, and that the actions meet the standards specified in Section 404.1. On receipt of a petition for coordination, the Chairperson of the



Judicial Council may assign a judge to determine whether the actions are complex, and if so, whether coordination of the actions is appropriate, or the Chairperson of the Judicial Council may authorize the presiding judge of a court to assign the matter to judicial officers of the court to make the determination in the same manner as assignments are made in other civil cases.

Notwithstanding any other provision of law, when civil actions sharing a common question of fact or law are pending in a superior court and in a municipal court of the same county, the superior court may, on the motion of any party supported by an affidavit stating facts showing that the actions meet the standards specified in Section 404.1, order transfer from the municipal court and consolidation of the actions in the superior court.

SEC. 4. Section 404.2 of the Code of Civil Procedure is amended to read:

404.2. A judge assigned pursuant to Section 404 who determines that coordination is appropriate shall select the reviewing court having appellate jurisdiction if the actions to be coordinated are within the jurisdiction of more than one reviewing court. The assigned judge shall select the reviewing court which will promote the ends of justice as determined under the standards specified in Section 404.1.

SEC. 5. Section 404.3 of the Code of Civil Procedure is amended to read:

404.3. (a) A judge assigned pursuant to Section 404 who determines that coordination is appropriate shall order the actions coordinated, report that fact to the Chairperson of the Judicial Council, and the Chairperson of the Judicial Council shall either assign a judge to hear and determine the actions in the site or sites the assigned judge finds appropriate or authorize the presiding judge of a court to assign the matter to judicial officers of the court in the same manner as assignments are made in other civil cases.

(b) When an action pending in a superior court is sought to be coordinated with an action pending in a municipal court located in the same county, the presiding



judge of the superior court may, as an alternative to coordination, order the municipal court action transferred to the superior court and consolidated with the superior court action.

SEC. 6. Section 404.4 of the Code of Civil Procedure is amended to read:

404.4. The presiding judge of any court in which there is pending an action sharing a common question of fact or law with actions coordinated pursuant to Section 404, on the court's own motion or the motion of any party supported by an affidavit stating facts showing that the action meets the standards specified in Section 404.1, or all the parties plaintiff or defendant in any such action, supported by an affidavit stating facts showing that the action meets the standards specified in Section 404.1, may request the judge assigned to hear the coordinated actions for an order coordinating the action. Coordination of the action shall be determined under the standards specified in Section 404.1.

SEC. 7. Section 404.8 of the Code of Civil Procedure is amended to read:

404.8. Expenses of the assigned judge, other necessary judicial officers and employees, and facilities for cases coordinated under Section 404 shall be paid or reimbursed by the state from funds appropriated to the Judicial Council.

SEC. 8. Section 404.9 is added to the Code of Civil Procedure, to read:

404.9. Any duties of the presiding judge specified in this chapter may be delegated by the presiding judge to another judge of the court. The term "presiding judge," as used in this chapter, includes the sole judge of a court having only one judge.

Notwithstanding any other provision of law, the Judicial Council shall provide by rule the practice and procedure for the transfer or coordination of civil actions in convenient courts under this chapter, including provision for giving notice and presenting evidence.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or

safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enact important procedures for the coordination of civil actions for the purpose of enabling each court to manage its workload in an efficient manner, it is essential that this act take effect immediately.



Approved _____, 1996

Governor

